

SUBCHAPTER II. PROHIBITED ACTS OF DISCRIMINATION

Part A. General.

§ 2-1402.01. General.

Every individual shall have an equal opportunity to participate fully in the economic, cultural and intellectual life of the District and to have an equal opportunity to participate in all aspects of life, including, but not limited to, in employment, in places of public accommodation, resort or amusement, in educational institutions, in public service, and in housing and commercial space accommodations.

Part B. Employment.

§ 2-1402.11. Prohibitions.

- (a) General. It shall be an unlawful discriminatory practice to do any of the following acts, wholly or partially for a discriminatory reason based upon the actual or perceived: race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, family responsibilities, disability, matriculation, or political affiliation of any individual:
 - (1) *By an employer* - To fail or refuse to hire, or to discharge, any individual; or otherwise to discriminate against any individual, with respect to his compensation, terms, conditions, or privileges of employment, including promotion; or to limit, segregate, or classify his employees in any way which would deprive or tend to deprive any individual of employment opportunities, or otherwise adversely affect his status as an employee;
 - (2) *By an employment agency* - To fail or refuse to refer for employment, or to classify or refer for employment, any individual, or otherwise to discriminate against, any individual; or
 - (3) *By a labor organization* - To exclude or to expel from its membership, or otherwise to discriminate against, any individual; or to limit, segregate, or classify its membership; or to classify, or fail, or refuse to refer for employment any individual in any way, which would deprive such individual of employment opportunities, or would limit such employment opportunities, or otherwise adversely affect his status as an employee or as an applicant for employment; or
 - (4) *By an employer, employment agency or labor organization* -
 - (A) To discriminate against any individual in admission to or the employment in,

any program established to provide apprenticeship or other training or retraining, including an on-the-job training program;

- (B) To print or publish, or cause to be printed or published, any notice or advertisement, or use any publication form, relating to employment by such an employer, or to membership in, or any classification or referral for employment by such a labor organization, or to any classification or referral for employment by such an employment agency, unlawfully indicating any preference, limitation, specification, or distinction, based on the race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, family responsibilities, matriculation, disability, or political affiliation of any individual.

(b) *Subterfuge* - It shall further be an unlawful discriminatory practice to do any of the above said acts for any reason that would not have been asserted but for, wholly or partially, a discriminatory reason based on the actual or perceived: race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, family responsibilities, matriculation, disability, or political affiliation of any individual.

(c) *Accommodation for religious observance* -

- (1) It shall further be an unlawful discriminatory practice for an employer to refuse to make a reasonable accommodation for an employee's religious observance by permitting the employee to make up work time lost due to such observance, unless such an accommodation would cause the employer undue hardship. An accommodation would cause an employer undue hardship when it would cause the employer to incur more than de minimis costs.
- (2) Such an accommodation may be made by permitting the employee to work:
 - (A) During the employee's scheduled lunchtime or other work breaks;
 - (B) Before or after the employee's usual working hours;
 - (C) Outside of the employer's normal business hours;
 - (D) During the employee's paid vacation days;
 - (E) During another employee's working hours as part of a voluntary swap with such other employee; or
 - (F) In any other manner that is mutually agreeable to the employer and employee.
- (3) When an employee's request for a particular form of accommodation would cause undue hardship to the employer, the employer shall reasonably accommodate the employee in a manner that does not cause undue hardship to the employer. Where other means of accommodation would cause undue hardship to the employer, an employee shall have the option of taking leave without pay if granting leave without pay would not cause undue hardship to the employer.

- (4) An employee shall notify the employer of the need for an accommodation at least 10 working days prior to the day or days for which the accommodation is needed, unless the need for the accommodation cannot reasonably be foreseen.
- (5) In any proceeding brought under this section, the employer shall have the burden of establishing that it would be unable reasonably to accommodate an employee's religious observance without incurring an undue hardship, provided, however, that in the case of an employer that employs more than 5 but fewer than 15 full-time employees, or where accommodation of an employee's observance of a religious practice would require the employee to take more than 3 consecutive days off from work, the employee shall have the burden of establishing that the employer could reasonably accommodate the employee's religious observance without incurring an undue hardship; and provided further, that it shall be considered an undue hardship if an employer would be required to pay any additional compensation to an employee by reason of an accommodation for an employee's religious observance. The mere assumption that other employees with the same religious beliefs might also request accommodation shall not be considered evidence of undue hardship. An employer that employs 5 or fewer full-time employees shall be exempt from the provisions of this subsection.

§ 2-1402.12. Exception.

- (a) It shall not be an unlawful discriminatory practice for an employer to observe the conditions of a bona fide seniority system or a bona fide employee benefit system such as retirement, pension or insurance plan which is not a subterfuge to evade the purposes of this chapter, except that no such employee seniority system or benefit plan shall excuse the failure to hire any individual.
- (b) It shall not be an unlawful discriminatory practice for the District of Columbia to prescribe minimum and maximum age limits for appointment to the police officer and firefighter cadet programs.

§ 2-1402.13. Reports and records.

Every employer, employment agency, and labor organization, subject both to this chapter and to Title VII of the Civil Rights Act of 1964, as amended, is to furnish to the Office, all reports that may be required by the Equal Employment Opportunity Commission established under the Civil Rights Act of 1964.

Part C. Housing and Commercial Space.

§ 2-1402.21. Prohibitions.

- (a) *General* - It shall be an unlawful discriminatory practice to do any of the following acts, wholly or partially for a discriminatory reason based on the actual or perceived: race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, familial status, family responsibilities, disability, matriculation, political affiliation, source of income, or place of residence or business of any individual:
- (1) To interrupt or terminate, or refuse or fail to initiate or conduct any transaction in real property; or to require different terms for such transaction; or to represent falsely that an interest in real property is not available for transaction;
 - (2) To include in the terms or conditions of a transaction in real property, any clause, condition or restriction;
 - (3) To appraise a property, refuse to lend money, guarantee a loan, purchase a loan, accept residential real property as security for a loan, accept a deed of trust or mortgage, or otherwise refuse to make funds available for the purchase, acquisition, construction, alteration, rehabilitation, repair or maintenance of real property; or impose different conditions on such financing; or refuse to provide title or other insurance relating to the ownership or use of any interest in real property;
 - (4) To refuse or restrict facilities, services, repairs or improvements for a tenant or lessee;
 - (5) To make, print, or publish, or cause to be made, printed, or published any notice, statement, or advertisement, with respect to a transaction, or proposed transaction, in real property, or financing relating thereto, which notice, statement, or advertisement unlawfully indicates or attempts unlawfully to indicate any preference, limitation, or discrimination based on race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, familial status, family responsibilities, disability, matriculation, political affiliation, source of income, or place of residence or business, of any individual;
 - (6) To discriminate in any financial transaction involving real property, on account of the location of residence or business (i.e. to “red-line”); or
 - (7) To limit access to, or membership or participation in any multiple-listing service, real estate brokers’ organization or other service, organization, or facility relating to the business of selling or renting residential real estate, or to discriminate against any person in terms or conditions of access, membership

or participation in any organization, service or facility.

- (b) *Subterfuge* - It shall further be an unlawful discriminatory practice to do any of the above said acts for any reason that would not have been asserted but for, wholly or partially, a discriminatory reason based on the actual or perceived: race, color, religion, national origin, sex, sexual orientation, familial status, family responsibilities, disability, matriculation, political affiliation, source of income, or place of residence or business of any individual.
- (c) *Families with children* -
 - (1) It shall be an unlawful discriminatory practice to do any of the acts prohibited in subsections (a) and (b) of this section wholly or partially based on the fact that a person has one or more children who reside with that person.
 - (2) There shall be a rebuttal presumption that an unlawful discriminatory practice has occurred if the person alleging discrimination has 1 or more children who reside with that person and any of the acts prohibited by subsections (a) and (b) of this section are done to maintain residential occupancies more restrictive than the following:
 - (A) In an efficiency apartment, 2 persons; or
 - (B) In an apartment with one or more bedrooms, 2 times the number of bedrooms plus one.
 - (3) Nothing contained in this chapter limits the applicability of any District or federal restriction regarding the maximum number of occupants permitted to occupy a dwelling. Nothing in this chapter regarding familial status applies to housing for older persons.
 - (4) For the purposes of this subsection “housing for older persons” means a premises which:
 - (A) The U.S. Department of Housing and Urban Development determines pursuant to a federal program, is specifically designed and operated to assist older persons;
 - (B) Is intended for, and solely occupied by persons 62 years of age or older; or
 - (C) Is intended and operated for occupancy by persons 55 years of age or older, provided that at least 80% of the occupied units are occupied by at least one person who is 55 years of age or older, and the housing facility or community publishes and adheres to policies and procedures that demonstrate the intent required pursuant to this paragraph, and complies with rules issued by the Secretary of the U.S. Department of Housing and Urban Development for verification of occupancy.

(d) *Disability* -

- (1) It shall be an unlawful discriminatory practice in the sale or rental of real estate to deny a dwelling to a buyer or renter or to otherwise make a dwelling unavailable to a buyer or renter because of a disability of:
 - (A) That buyer or renter; or
 - (B) Any person residing in or intending to reside in that dwelling after it is sold, rented or made available; or any person associated with that buyer or renter.
- (2) It shall be unlawful to discriminate against any person in the terms, conditions, or privileges of sale or rental of a dwelling or in the provision of services or facilities in connection with the dwelling because of a disability of:
 - (A) That buyer or renter; or
 - (B) Any person residing in or intending to reside in that dwelling after it is sold, rented or made available; or any person associated with that buyer or renter.
- (3) For purposes of this subsection, “unlawful discrimination” includes:
 - (A) A refusal to permit, at the expense of the person with the disability, reasonable modifications of existing premises occupied or to be occupied by the person if the modification may be necessary to afford the person full enjoyment of the premises of a dwelling. A landlord, where it is reasonable, may condition permission for a modification on the renter agreeing to restore the interior of the premises to the condition that existed before the modification, reasonable wear and tear excepted;
 - (B) A refusal to make reasonable accommodations in rules, policies, practices, or services, when these accommodations may be necessary to afford any person equal opportunity to use and enjoy a dwelling;
 - (C) In connection with the design and construction of covered multifamily dwellings for first occupancy after April 20, 1999, a failure to design and construct these dwellings in a manner that:
 - (i) The public and common use portions of the dwellings are readily accessible to and usable by disabled persons; and
 - (ii) Doors designed to allow passage into and within all premises within the dwellings are sufficiently wide to allow passage by persons with wheelchairs;
 - (D) All premises within the dwellings shall contain the following

features of adaptive design:

- (i) An accessible route into and through the dwelling;
 - (ii) Light switches, electrical outlets, thermostats, and other environmental controls in accessible locations;
 - (iii) Reinforcements in bathroom walls to allow later installations of grab bars;
 - (iv) Usable kitchens and bathrooms so that an individual in a wheelchair can maneuver about the space; and
 - (v) The premises within the dwellings shall have at least 1 building entrance on an accessible route unless it is impracticable because of the terrain or unusual characteristics of the site.
- (4) Compliance with the appropriate requirements of the American National Standard for buildings and facilities providing accessibility and usability for disabled persons suffices to satisfy the requirements of paragraph (3) of this subsection.
- (5) Nothing in this subsection requires that a dwelling be made available to an individual whose tenancy would constitute a direct threat to the health or safety of other individuals or whose tenancy would result in substantial physical damage to the property of others.

§ 2-1402.22. Blockbusting and steering.

It shall be an unlawful discriminatory practice for any person, whether or not acting for monetary gain, directly or indirectly to engage in the practices of “blockbusting” and “steering”, including, but not limited to, the commission of any 1 or more of the following acts:

- (1) To promote, induce, influence, or attempt to promote, induce, or influence a transaction in real property through any representation, means or device whatsoever calculated to induce a person to discriminate or to engage in such transaction wholly or partially in response to discrimination, prejudice, fear or unrest adduced by such means, device or representation;
- (2) To place a sign, or display any other device, either purporting to offer or tending to lead to the belief that an offer is being made for a transaction in real property that is not in fact available or offered for transaction, or which purports that any transaction in real property has occurred that in fact has not.

§ 2-1402.23. Acts of discrimination by broker or salesperson.

Any real estate broker or real estate salesperson who commits any act of discrimination prohibited under the provisions of this chapter, if such act or the property involved is within the

District of Columbia, or if such act occurs outside of the District of Columbia, in a place where such act is prohibited by state or local law, ordinance or regulation, without regard to location of the property, shall be considered by the Real Estate Commission, for the purposes of Chapter 17 of Title 42, as having endangered the public interest; and shall be subject to the procedures set forth in § 2-1403.17.

§ 2-1402.24. Exceptions.

- (a) Nothing in this chapter is to be construed to apply to the rental or leasing of housing accommodations in a building in which the owner, or members of his family occupy one of the living units and in which there are, or the owner intends that there be, accommodations for not more than:
 - (1) Four families, and only with respect to a prospective tenant, not related to the owner-occupant, with whom the owner-occupant anticipates the necessity of sharing a kitchen or bathroom; or
 - (2) Two families living independently of each other.
- (b) Nothing contained in the provisions of this chapter shall be deemed to permit any rental or occupancy otherwise prohibited by any statute, or by any regulation previously enacted and not repealed herein.
- (c) Nothing in this chapter shall apply to the sale or rental of a single-family home sold or rented by an owner if:
 - (1) The owner does not own more than 3 single-family homes at any one time; or own any interest in, or has owned or reserved on his behalf, under any express or voluntary agreement, title to any right to all or a portion of the proceeds from the sale or rental of more than 3 single-family homes at any one time. This exemption shall apply only to one sale within a 24-month period of the sale of any single-family home by a private owner not residing in that home at the time of the sale or who was not the most recent resident of that home prior to the sale.
 - (2) The home was sold or rented without:
 - (A) The use of the sales or rental facilities or services of a real estate broker, agent, or salesperson, or of the facilities or services of any person in the business of selling or renting dwellings, or of any employee or agent, or sales person; and
 - (B) Without the publication, posting or mailing, after notice, of any advertisement in violation of § 2-1402.21(a)(5).

Part D. Public Accommodations.

§ 2-1402.31. Prohibitions.

- (a) General. It shall be an unlawful discriminatory practice to do any of the following acts, wholly or partially for a discriminatory reason based on the actual or perceived: race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, familial status, family responsibilities, disability, matriculation, political affiliation, source of income, or place of residence or business of any individual:
- (1) To deny, directly or indirectly, any person the full and equal enjoyment of the goods, services, facilities, privileges, advantages, and accommodations of any place of public accommodations;
 - (2) To print, circulate, post, or mail, or otherwise cause, directly or indirectly, to be published a statement, advertisement, or sign which indicates that the full and equal enjoyment of the goods, services, facilities, privileges, advantages, and accommodations of a place of public accommodation will be unlawfully refused, withheld from or denied an individual; or that an individual's patronage of, or presence at, a place of public accommodation is objectionable, unwelcome, unacceptable, or undesirable.
- (b) *Subterfuge* - It is further unlawful to do any of the above said acts for any reason that would not have been asserted but for, wholly or partially, a discriminatory reason based on the actual or perceived: race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, familial status, family responsibilities, disability, matriculation, political affiliation, source of income, or place of residence or business of any individual.

Part E. Educational Institutions.

§ 2-1402.41. Prohibitions.

It is an unlawful discriminatory practice, subject to the exemptions in § 2-1401.03(b), for an educational institution:

- (1) To deny, restrict, or to abridge or condition the use of, or access to, any of its facilities, services, programs, or benefits of any program or activity to any person otherwise qualified, wholly or partially, for a discriminatory reason, based upon the actual or perceived: race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, familial status, family responsibilities, political affiliation, source of income, or disability of

any individual; or

- (2) To make or use a written or oral inquiry, or form of application for admission, that elicits or attempts to elicit information, or to make or keep a record, concerning the race, color, religion, or national origin of an applicant for admission, except as permitted by regulations of the Office.
- (3) Notwithstanding any other provision of the laws of the District of Columbia, it shall not be an unlawful discriminatory practice in the District of Columbia for any educational institution that is affiliated with a religious organization or closely associated with the tenets of a religious organization to deny, restrict, abridge, or condition -
 - (A) The use of any fund, service, facility, or benefit; or
 - (B) The granting of any endorsement, approval, or recognition, to any person or persons that are organized for, or engaged in, promoting, encouraging, or condoning any homosexual act, lifestyle, orientation, or belief.

§ 2-1402.42. Exceptions regarding sex discrimination and age.

- (a) Nothing in this chapter regarding sex discrimination in admission policy shall apply to any private undergraduate college or to any private preschool, elementary or secondary school; except that, when any of the above exempted colleges offers a course nowhere else available in the District, opportunity for admission to that course must be open to students of both sexes who otherwise meet lawful requirements for admission.
- (b) It shall not be an unlawful discriminatory practice for the District of Columbia to prescribe minimum and maximum age limits for appointment to the police officer and firefighter cadet programs.

Part F. General Requirements.

§ 2-1402.51. Posting of notice.

Every person subject to this chapter shall post and keep posted in a conspicuous location where business or activity is customarily conducted or negotiated, a notice whose language and form has been prepared by the Office, setting forth excerpts from or summaries of, the pertinent provisions of this chapter and information pertinent to the filing of a complaint.

§ 2-1402.52. Records and reports.

- (a) Every person subject to this chapter shall preserve any regularly kept business records for a period of 6 months from the date of the making of the record, or from the date of the action which is the subject of the record, whichever is longer; such records shall include, but not be limited to, application forms submitted by applicants, sales and rental records, credit and reference reports, personnel records, and any other record pertaining to the status of an individual's enjoyment of the rights and privileges protected or granted under this chapter.
- (b) Where a charge of discrimination has been filed against a person under this chapter, the respondent shall preserve all records, which may be relevant to the charge or action, until a final disposition of the charge in accordance with subsection (c) of this section.
- (c) All persons subject to this chapter shall furnish to the Office, at the time and in the manner prescribed by the Office, such reports relating to information under their control as the Office may require. The identities of persons and properties contained in reports submitted to the Office under the provisions of this section shall not be made public.

§ 2-1402.53. Affirmative action plans.

- (a) It shall not be an unlawful discriminatory practice for any person to carry out an affirmative action plan that has been approved by the Office. An affirmative action plan is any plan devised to effectuate remedial or corrective action in response to past discriminatory practices prohibited under this chapter and may also include those plans devised to provide preferential treatment for a class or classes of persons, which preferential treatment by class would otherwise be prohibited by this chapter and which plan is not devised to contravene the intent of this chapter.
- (b) All banks and savings and loan associations, subject to this chapter, shall submit annually to the Office an affirmative action plan, which shall include goals and timetables for the remediation or correction of past or present discriminatory practices. Such plan shall be reviewed by the Office and is subject to its approval.
- (c) It shall be an unlawful discriminatory practice for any bank or savings and loan association, subject to this chapter, to fail to develop an affirmative action plan approved by the Office or fail to comply substantially with the terms of such affirmative action plan.
- (d) The Office shall develop and promulgate guidelines, which will set forth the affirmative action requirements of this section and shall incorporate, but not be limited to, applicable federal guidelines. Such guidelines shall be promulgated by the Office within 120 days of the enactment of this law consistent with the District of

Columbia Administrative Procedure Act (§2-501 et seq.) and shall not become effective until 60 calendar days following submission to the Council.

Part G. Other Prohibited Practices.

§ 2-1402.61. Coercion or retaliation.

- (a) It shall be an unlawful discriminatory practice to coerce, threaten, retaliate against, or interfere with any person in the exercise or enjoyment of, or on account of having exercised or enjoyed, or on account of having aided or encouraged any other person in the exercise or enjoyment of any right granted or protected under this chapter.
- (b) It shall be an unlawful discriminatory practice for any person to require, request, or suggest that a person retaliate against, interfere with, intimidate or discriminate against a person, because that person has opposed any practice made unlawful by this chapter, or because that person has made a charge, testified, assisted, or participated in any manner in an investigation, proceeding of hearing authorized under this chapter.
- (c) It shall be an unlawful discriminatory practice for any person to cause or coerce, or attempt to cause or coerce, directly or indirectly, any person to prevent any person from complying with the provisions of this chapter.

§ 2-1402.62. Aiding or abetting.

It shall be an unlawful discriminatory practice for any person to aid, abet, invite, compel, or coerce the doing of any of the acts forbidden under the provisions of this chapter or to attempt to do so.

§ 2-1402.63. Conciliation agreements.

It shall be an unlawful discriminatory practice for a party to a conciliation agreement, made under the provisions of this chapter, to violate the terms of such agreement.

§ 2-1402.64. Resisting the Office or Commission.

- (a) Any person who shall willfully resist, prevent, impede or interfere with the Office or the Commission, or any of their representatives, in the performance of any duty under the provisions of this chapter, or shall willfully violate an order of the Commission, shall upon conviction, be punished by imprisonment for not more than 10 days, or by

a fine of not more than \$300, or by both, except, that filing a petition for review of an order, pursuant to the provisions of this chapter, shall not be deemed to constitute such willful conduct, nor shall compliance with any procedure regarding a subpoena in accord with § 5-1021, be deemed to constitute such willful conduct.

- (b) It shall be an unlawful discriminatory practice for a person subject to this chapter to fail to post notices, maintain records, file reports, as required by §§ 2-1402.51 to 2-1402.53, or to supply documents and information requested by the Office in connection with a matter under investigation.

§ 2-1402.65. Falsifying documents and testimony.

It shall be unlawful to willfully falsify documents, records, or reports, which are required or subpoenaed pursuant to this chapter, or willfully to falsify testimony, or to intimidate any witness or complainant; such violations shall be punishable by imprisonment for not more than 10 days, or by a fine of not more than \$300, or by both.

§ 2-1402.66. Arrest records.

It shall be an unlawful practice, punishable by a fine of not more than \$300, or imprisonment for not more than 10 days, or both, for any person to require the production of any arrest record or any copy, extract, or statement thereof, at the monetary expense of any individual to whom such record may relate. Such “arrest records” shall contain only listings of convictions and forfeitures of collateral that have occurred within 10 years of the time at which such record is requested.

§ 2-1402.67. District of Columbia.

All permits, licenses, franchises, benefits, exemptions, or advantages issued by or on behalf of the government of the District of Columbia, shall specifically require and be conditioned upon full compliance with the provisions of this chapter; and shall further specify that the failure or refusal to comply with any provision of this chapter shall be a proper basis for revocation of such permit, license, franchise, benefit, exemption, or advantage.

§ 2-1402.68. Effects clause.

Any practice which has the effect or consequence of violating any of the provisions of this chapter shall be deemed to be an unlawful discriminatory practice.

Part H. Miscellaneous Provisions.

§ 2-1402.71. Prohibitions.

It is unlawful discriminatory practice for an insurer authorized to sell motor vehicle insurance in the District of Columbia to do any of the following acts, wholly or partially for a discriminatory reason based on actual or perceived: race, color, religion, national origin, sex, marital status, personal appearance, sexual orientation, family responsibilities, disability, matriculation, political affiliation, lawful occupation, or location within the geographical area of the District of Columbia of any individual:

- (1) To fail or refuse to issue a policy of motor vehicle insurance;
- (2) To fail or refuse to renew a policy of motor vehicle insurance; or
- (3) To cancel a policy of motor vehicle insurance.

§ 2-1402.72. Motor vehicle rental companies.

Notwithstanding any other provision of this chapter, it shall not be an unlawful practice for a motor vehicle rental company to fail or refuse to rent a motor vehicle, or to impose differential terms and conditions upon the rental of a motor vehicle, based on the age of any person, where such action is reasonably related to accident risk or threat to public safety.

§ 2-1402.73 Application to the District Government.

Except as otherwise provided for by District law or when otherwise lawfully and reasonably permitted, it shall be an unlawful discriminatory practice for a District government agency or office to limit or refuse to provide any facility, service, program, or benefit to any individual on the basis of an individual's actual or perceived: race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, familial status, family responsibilities, disability, matriculation, political affiliation, source of income, or place of residence or business.